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COMMISSION ON HUMAN RIGHTS
Forty-eighth session
Agenda items 3 and 12

ORGANIZATION OF THE WORK OF THE SESSION

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS
IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL
AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Written statement submitted by the International League for
the Rights and the Liberation of Peoples, a non-governmental
organization in consultative status (category II)

The Secretary-General has received the following communication,
which is circulated in accordance with Economic and Social Council
resolution 1296 (XLIV).

[13 January 1992]

HUMAN RIGHTS IN GUATEMALA

In 1986, the Commission on Human Rights, considering that the establishment of a civilian Christian Democrat Government in Guatemala was a sufficient guarantee of an improvement in the situation of serious and persistent human rights violations and generalized repression, decided to terminate the mandate of the Special Rapporteur and subsequently, in 1987, offered the Guatemalan Government the programme of advisory services in the field of human rights.

At the end of the term of office of the Christian Democrat Government, many international bodies, non-governmental organizations, the Governments of the States members of the European Community and other Governments, recognized, directly or indirectly, that the situation had deteriorated substantially and that it could not improve without fundamental changes in the power structure.

The report submitted in February 1991 (E/CN.4/1991/5 and Add.1), by Mr. C. Tomuschat, the independent Expert appointed by the United Nations to examine the case of Guatemala, also emphasized that there had been no fundamental changes and that one of the greatest obstacles to improving the human rights situation was the absolute power of the army and its merciless control over the population.

Despite this, in the same month of February, because the new civilian Government of Mr. Serrano Elías promised to respect human rights and said that it was willing to seek peace, the Commission again gave the Government the benefit of the doubt.

Now almost one year after "the benefit of the doubt", we can say that a characteristic feature of President Serrano's human rights policy also has been to ignore the repeated pleas of the people of Guatemala. Neither of the two civilian Governments of the past six years has taken effective measures to ensure that its armed and security forces respect the human rights and fundamental freedoms of its citizens, and the situation deteriorated still further in 1991. This policy has made it possible to reinforce the repressive structure set up by the previous military regimes.

As the expert said in paragraph 49 of the above-mentioned report: "The credibility of the new Government as a guarantor of human rights and social justice will be assessed in particular by its performance in combating (...) politically motivated disappearances and murders. To this end, the new Government will have to establish its firm authority over the armed forces (...)"

The widespread violation of human rights and the persistent impunity had led the Organization of American States to state, in March 1991, that the situation in Guatemala continued to be serious and to declare that Guatemala was its chief concern because of the current deterioration in the situation demonstrated by the alarming atmosphere of violence that prevailed in the country.

The Human Rights Office of the Archbishopric of Guatemala and the Centre for Human Rights Research, Study and Promotion (CIEPRODH), as well as other Guatemalan organizations attending the forty-seventh session of the United Nations Commission on Human Rights, had requested that the case of Guatemala be transferred to agenda item 12 and that a Special Rapporteur be appointed. These organizations have recently confirmed the figures published

by the Guatemalan Human Rights Commission in December 1991: 744 extrajudicial executions, at least 82 enforced or involuntary disappearances, 535 death threats, 259 assassination attempts, 90 cases of torture and 42 indiscriminate bomb attacks on the civilian population in areas of armed conflict. In their respective statements, they emphasized that the figures provided represented only a part of what was actually taking place in the country, because the direct victims of the attacks and their relatives refrained from lodging complaints for fear of reprisals.

The process of seeking peace by political means has now reached the stage where the Government, the Guatemalan Army and the National Revolutionary United Front (URNG) are directly negotiating upon an eleven-point agenda established by the Mexico Agreement in April 1991. Since this process began, some international bodies and Governments have preferred not to express their concerns about human rights in order not to hinder the process which, up to the signing of the Querétaro Agreement in July 1991, had been making positive and encouraging progress.

The Querétaro Agreement expressed to some extent all the demands and claims of the political parties, the churches, the grassroots and trade union movements, the academic sector, the corporations and small entrepreneurs, which, in the course of 1990, had been involved in the dialogue with the URNG.

In this Agreement on the subject of "democratization", the Government, the Army and the URNG agreed, inter alia, "that the strengthening of functional and participatory democracy requires:

- (a) The pre-eminence of civilian society;
- (b) The development of democratic institutional life;
- (c) The effective functioning of the rule of law;
- (d) The permanent elimination of political repression, electoral fraud vote-rigging, military disturbances and pressures, and anti-democratic, destabilizing activities;
- (e) Unrestricted respect for human rights;
- (f) The subordination of the role of the armed forces to civilian authority;
- (g) The recognition of and respect for the identity and rights of the indigenous peoples;

(h) Access by all Guatemalans to the benefits of national production and natural resources, and enjoyment thereof, which must be based on principles of social justice;

(i) The Effective resettlement of populations uprooted by the internal armed conflict".

The momentous importance of the above-mentioned concepts, which have been accepted by both parties, and which are aimed at strengthening democracy and achieving national reconciliation, was also fully recognized by the Sub-Commission on Prevention of Discrimination and Protection of Minorities in its resolution of August 1991.

However, while the parties are negotiating, there has been an increase in the violations of the human rights of all the sectors that had participated in the peace-seeking dialogue and had, over the years, been demanding respect for human rights; they are now demanding this respect whatever the outcome of the negotiating process.

There is a consensus among the different sectors that are representative of Guatemalan society, that peace in Guatemala cannot be achieved merely by a cease-fire but through the negotiation of specific, viable and verifiable political agreements that will resolve the structural problems that gave rise to the internal armed conflict, and that the possibility of superficial and insignificant agreements, that fail to take into account the root causes of the crisis that besets the Guatemalan people, should be rejected.

Unfortunately, as soon as the topic of human rights was broached in the negotiations, the Government delegation and the Army declared that, as long as the armed conflict continued, there would be violations of human rights, and they characterized the URNG proposals as unconstitutional and unacceptable. No agreement was reached between the parties at the last two meetings. It would appear that the main points of disagreement were over the URNG proposals, which, in fact, reflect specific measures for the immediate respect of human rights, such as those formulated year after year by the international community. The proposals are as follows: dismantling of the structures of military control over the civilian population (especially the Civilian Self-Defence Patrols (PAC) and the secret repression machinery); respect for the standards of international humanitarian law; investigation of the violations of human rights and punishment of the perpetrators so as to combat impunity effectively; and immediate application of the agreement on human rights and verification of conformity therewith, with the participation of international organizations such as the United Nations.

After the last round of negotiations, it was clearly noted that there were sectors of the civilian and military authorities which oppose these agreements, and above all their immediate application in the area of human rights.

Today, more than ever before, we can repeat what we affirmed in our written statement last year, "... that it was a serious error on the part of the international community to abandon the victims of repression ..."
(E/CN.4/1991/NGO/16, para. 16).

Today, more than ever before, the international community should seize this historical opportunity to find far-reaching and durable solutions through negotiation, and should assume its political and moral responsibility by adopting a clear position vis-à-vis the intransigent sectors and by supporting the efforts of the Guatemalans who are seeking peace by political means.

Since the measures applied over the last six years have been ineffective, the International League for the Rights and the Liberation of Peoples feels that the time has come to take the fair and equitable decision to impose proper monitoring by the international human rights bodies of both the human rights situation in Guatemala and compliance with the agreements reached through the negotiating process. It thus requests the Commission on Human Rights to decide to deal with the case of Guatemala under agenda item 12 and to appoint a special rapporteur for that country. Such a decision by the Commission would be endorsed by the international community and would support the negotiating process in a practical way by putting pressure on the parties to reach political agreements on the protection of human rights and fundamental freedoms in Guatemala.

Annex

Agreement on a general agenda, signed at Mexico City
on 26 April 1991

1. Democratization. Human rights.
2. Strengthening of civilian authority and the role of the army in a democratic society.
3. Identity and rights of indigenous peoples.
4. Constitutional reforms and electoral system.
5. Socio-economic aspects.
6. Agrarian situation.
7. Resettlement of populations uprooted by the armed conflict.
8. Bases for bringing URNG into the political life of the country.
9. Arrangements for the final cease-fire.
10. Timetable for the implementation, fulfilment and verification of agreements.
11. Signing of the agreement on a firm and lasting peace, and demobilization.



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COMMISSION ON HUMAN RIGHTS
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QUESTION OF THE REALIZATION IN ALL COUNTRIES OF THE ECONOMIC, SOCIAL AND CULTURAL RIGHTS CONTAINED IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AND IN THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, AND STUDY OF SPECIAL PROBLEMS WHICH THE DEVELOPING COUNTRIES FACE IN THEIR EFFORTS TO ACHIEVE THESE HUMAN RIGHTS, INCLUDING: PROBLEMS RELATED TO THE RIGHT TO ENJOY AN ADEQUATE STANDARD OF LIVING; FOREIGN DEBT, ECONOMIC ADJUSTMENT POLICIES AND THEIR EFFECTS ON THE FULL ENJOYMENT OF HUMAN RIGHTS AND, IN PARTICULAR, ON THE IMPLEMENTATION OF THE DECLARATION ON THE RIGHT TO DEVELOPMENT

QUESTION OF THE REALIZATION OF THE RIGHT TO DEVELOPMENT

Written statement submitted by Women's International Democratic Federation and World Federation of Trade Unions, non-governmental organizations in consultative status (category I), American Association of Jurists, International Association of Democratic Lawyers, International Indian Treaty Council, International League for the Rights and Liberation of Peoples, Latin American Federation of Associations of Relatives of Disappeared Detainees, Pax Romana, Service, Justice and Peace in Latin America, Women's International League for Peace and Freedom and World Student Christian Federation, non-governmental organizations in consultative status (category II), and Movement against Racism and for Friendship among Peoples and International Peace Bureau, non-governmental organizations on the Roster

The Secretary-General has received the following communication, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[21 January 1992]

1. On 22 December 1989, the General Assembly of the United Nations voted almost unanimously (there were only five abstentions and no vote against) resolution 44/215 on "Economic measures as a means of political and economic coercion against developing countries", in which it deplored the fact that some developed countries continued to apply and, in some cases, had increased the scope and magnitude of economic measures that had the purpose of exerting, directly or indirectly, coercion on the sovereign decisions of the developing countries subject to those measures. The resolution further called upon the developed countries to refrain from exercising political coercion through the application of economic instruments with the purpose of inducing changes in the economic or social systems, as well as in the domestic or foreign policies, of other countries. The resolution recalled other relevant resolutions of the General Assembly, article 32 of the Charter of Economic Rights and Duties of States, resolution 152 (VI) dated 2 July 1983 of the United Nations Conference on Trade and Development, the principles and rules of the General Agreement on Tariffs and Trade, etc. The General Assembly expressed, in the same resolution, its grave concern that the use of coercive measures adversely affected the economies and development efforts of developing countries and that, in some cases, those measures had worsened, creating a negative impact on international economic cooperation.

2. In the case of the embargo against Nicaragua, in its Judgment of 27 June 1986 (Nicaragua vs United States of America), the International Court of Justice stated, in subparagraph (11) of operative paragraph 292, that: "... the United States of America, by the attacks on Nicaraguan territory referred to in subparagraph (4) hereof, and by declaring a general embargo on trade with Nicaragua on 1 May 1985, has acted in breach of its obligations under Article XIX of the Treaty of Friendship, Commerce and Navigation between the Parties signed at Managua on 21 January 1956".

3. The General Assembly of the United Nations, in its resolution 44/217 of 22 December 1989, deploring the continuation of the trade embargo against Nicaragua, referred to the Judgment of the International Court of Justice of 27 June 1986. Thus, the two highest - political and legal - international bodies condemned unequivocally as contrary to international law the use by a country of economic pressure, and particularly of measures of trade embargo, as a means of coercion for the purpose of inducing changes in the domestic or foreign policies of another country.

4. However, such situations are still occurring, as in the case of the embargo imposed 30 years ago by the Government of the United States of America against the Republic of Cuba. In this case, the Government of the United States not only prohibits trading with Cuba by the enterprises established on its own territory, but also by subsidiary firms installed in the territories of other countries. It also exerts pressure on foreign firms which manufacture products containing components of United States origin to prevent them from selling those products to Cuba, by threatening to suspend

the supply of the said components. The attempt to impose specific commercial policies on firms based outside the United States affects the sovereign right of the third States to apply national rules to the firms established in their territories, to the exclusion of foreign rules, especially if they are contrary to international law.

5. Until recently, the Republic of Cuba was able to overcome, at least partly, the consequences of the embargo imposed by the Government of the United States owing to its substantial trade with the countries having centrally planned economies. However, the profound economic and political changes that have occurred in those countries have also entailed fundamental changes in the direction of their foreign trade, with the result that Cuba has lost important markets for its products as well as sources of supply of goods (energy, food, commodities, medicines, etc.) that are essential for its survival and development.

6. It is clear that, in these circumstances, the embargo imposed by the Government of the United States on the Republic of Cuba - a de facto multinational embargo - violates not only international free-trade rules and the right to development but also fundamental human rights in that it deprives the Cuban people of goods essential for their nourishment, health, education, etc. The international community cannot accept that, in time of peace and when the momentous transformations that have taken place in many countries should be the starting point for the creation of a world society based on mutual respect, law and justice, a great Power should try to exert pressure on the Government of a small country, condemning the people of that country to a state of extreme necessity, in violation of basic principles of international law.

7. The motives invoked by the Government of the United States - to compel internal changes in the Republic of Cuba favourable to the full realization of human rights - cannot justify the means employed which are clearly condemned by the highest international bodies. Within the United Nations, there are bodies competent to deal with situations concerning human rights, and various States, in particular the United States of America, have expressed before those bodies their concern at the situation of human rights in Cuba. The Commission on Human Rights, echoing those concerns, adopted its resolution 1991/68 inviting the General Secretary to appoint a special representative on Cuba, who has already taken up his duties. That was a multilateral decision, approved in the framework of the United Nations and in accordance with the Charter, and not a unilateral decision adopted outside the United Nations and contrary to the Charter, like the embargo on Cuba imposed by the Government of the United States.

8. For the reasons given above, the undersigned non-governmental organizations request the Commission on Human Rights to adopt, at its forty-eighth session, a resolution calling upon the Government of the United States to lift the embargo imposed on the Republic of Cuba.



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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS
IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL
AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Written statement submitted by the International Union of
Young Christian Democrats, a non-governmental organization
in consultative status (category II)

The Secretary-General had received the following communication,
which is circulated in accordance with Economic and Social Council
resolution 1296 (XLIV).

[30 December 1991]

Notes on the situation of children and young people in Iraq following
the Gulf war

1. Since the cease-fire in the territories of Kuwait and Iraq marking the conclusion of the conflict at the end of February 1991, the International Union of Young Christian Democrats (IUYCD) has followed the human rights situation in the area with interest and constant concern.
2. The IUYCD is particularly concerned with the consequences for children and young people, not only of the conflict itself, but also of the social situation brought about by the Government of Iraq, since it seems quite obvious that the situation is closely linked with the wholesale violations of the most elemental rights of the Iraqi population.

3. We should therefore like to draw attention to recent studies conducted by various international organizations, including UNICEF, showing that, prior to the Gulf crisis in Iraq, mortality among children of less than five years of age was 27.8 per thousand live births, and that this rate has risen alarmingly to 104.4 deaths per thousand live births in recent months. It is also estimated that the mortality rate among infants less than one year old is 350 per cent higher than at the beginning of hostilities in 1991.

4. In addition, studies of the current situation have revealed deep psychological traumas which could last for decades among the bulk of the young population of Iraq arising out of inadequate sanitary conditions and problems of malnutrition which have been dragging on for decades. The future of Iraqi youth is in serious jeopardy.

5. It is a well-known fact that the war has had a disastrous impact on the socio-economic infrastructure of Iraq. Unemployment and the general impoverishment of the population will undoubtedly be most marked among the younger segments of the Iraqi population.

6. The data given above on the situation of Iraqi children and young people are just part of the long list of innumerable violations of human rights committed by the Government of Iraq, a list which, far from diminishing, has grown longer throughout 1991.

7. Amnesty International, among other organizations, has clearly documented all these violations which followed the uprisings that began on 1 March in various cities in Iraq, in both the south and the north (Kurdish areas).

8. The IUYCD wishes to draw attention to these facts, since there is not the slightest indication that the regime has given up its infamous practices.
